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CHICAGO, IL 60601

EXAMINER

BASHORE, ALAIN L

ART UNIT PAPER NUMBER

3624

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/976,607

Applicant(s)

ELLIOTT ET AL.

Examiner

Alain L. Bashore

Art Unit

3624

MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 5-6, 9, 10-12, 14, 16, 20-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regard as the invention.

The following recitations are vague and indefinite, not only because it is not clear what are the meets and bounds, but also because the recitations are relative in nature:

“value the ability”

“concerned”

“aggressive”

“tactics”

“values”

“wish to be treated”

“optimal allocation of available collection resources”

“skill-set”

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-21 are rejected under 35 U.S.C. 101 as non-statutory. The method claims as presented do not claim a technological basis in the body of the claim. Without a claimed basis, the claim may be interpreted in an alternative as involving no more than a manipulation of an abstract idea and therefore non-statutory under 35 U.S.C. 101. In contrast, a method claim that includes in the body of the claim at least one structural / functional interrelationship which can only be computer implemented (and non-trivial) is considered to have a technological basis [See Ex parte Bowman, 61 USPQ2d 1669, 1671 (Bd. Pat. App. & Inter. 2001) – used only for content and reasoning since not precedential].

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 4, 6, 8, 10-11, 13-15, 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szlam et al in view of White et al.

Szlam et al discloses improving or enhancing debt collection from a plurality of debtors including attitudinally classifying a debtor (and debtor likelihoods) into at least one of a plurality of attitudinal elements according to a plurality of attitudinal profiles (col 21, lines 1-10) each of said elements suggesting a debt collection strategy which is then assigned (via a relative value) and employed (col 22, lines 50-67; col 23, lines 1-10). A collection agent is determined having a skill set conforming to a debtors attitudinal profile and likelihood to make payment on debt (col 22, lines 61-65). Identifying debtors sharing a set of values and preferences for how they wish to be treated is disclosed (col 21, lines 1-10). Optimal allocation of available collection resources is disclosed (col 7, lines 45-65, written correspondence sent (col 22, lines 39-49). The use of a "forceful voice (col 23, lines 1) encompasses "aggressive" collection tactics.

Szlam et al does not describe their attitudinal elements as "segments " or use of the term "modeling".

White et al disclose use of segments (para 0022) and modeling (para 0023, 0024, 0040).

It would have been obvious to one with ordinary skill in the art to include segments because White et al teaches segmentations as useful in the debt collection process (para 0022).

It would have been obvious to one with ordinary skill in the art to include modeling because White et al teaches modeling typical of computer processing of debt collection strategy (para 0040).

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Szlam et al in view of White et al as applied to claims 1 above, and further in view of Hamscher.

Szlam et al specifically discloses the use of scripts in the prior art (col 1, line 29-32).

Szlam et al in view of White et al do not specifically describe their scripts as "negotiation scripts". While it is the examiner's position that such is inherent to the prior art, the reference to Hamscher specifically discloses such (para 0058).

It would have been obvious to one with ordinary skill in the art to include negotiation scripts since Hamscher discloses complexity in a business negotiation that requires scripting (para 0002, 0058).

7. Claims 2, 5, 7, 9, 12, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szlam et al in view of White et al as applied to claims 1, 4, 6, 8, 10-11, 13-15, 17-21 above, and further in view of Makuch et al.

Claims 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Szlam et al in view of White et al in further view of as applied 1 above, and further in view of Hamscher in view of Makuch et al.

Hamscher is applied as describe in the above rejection utilizing the refrence.

Szlam et al, White et al, and Hamscher do not specifically disclose segments that include debtors who value the ability to restructure debt payment or debtors who are concerned about credit rating.

Matuch et al discloses concern of debtors regarding credit rating and value to continue as a customer of debt payments restructure debt (page 102: col 1, para 2; col 2, para 1)

It would have been obvious to one with ordinary skill in the art to include segments that include debtors who value the ability to restructure debt payment or debtors who are concerned about credit rating because Matuch et al teaches further attitudinal classifications than are taught by Szlam et al.

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1, 4, 6-8, 10, 15, 18-21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 5-7 of copending Application No. 10/011523 in view of Szlam et al.

What is not claimed in the copending application is the use of attitudinal segments.

Szlam et al discloses attitudinal segments/classification.

It would have been obvious to one with ordinary skill in the art to include in the claims pending such since Szlam teaches sensitivity profiles as enhancing debt collection (col 20, lines 43-44).

This is a provisional obviousness-type double patenting rejection.

10. Claims 1, 3-4, 6-8, 10, 15, 18-21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of copending Application No. 10/2002262 in view of Szlam et al.

What is not claimed in the copending application is the use of attitudinal segments.

Szlam et al discloses attitudinal segments/classification.

It would have been obvious to one with ordinary skill in the art to include in the claims pending such since Szlam teaches sensitivity profiles as enhancing debt collection (col 20, lines 43-44).

This is a provisional obviousness-type double patenting rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alain L. Bashore whose telephone number is 703-308-1884. The examiner can normally be reached on about 7:00 am to 4:30 pm (Monday thru Thursday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Alain L. Bashore